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3 **DECISION AND ORDER**
4 **OF THE**
5 **BOARD OF PSYCHOLOGY**

6
7 **DEPARTMENT OF CONSUMER AFFAIRS**

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9 The attached Stipulation for Surrender of License in case number W242, is hereby
10 adopted as the Decision and Order of the Board of Psychology, Department of Consumer
11 Affairs. An effective date of February 8, 2003 has been assigned to this
12 Decision and Order.

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14 Made this 9th day of January, 2003.

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17 _____
18 Pamela Harmell, Ph.D.
19 President, Board of Psychology
20 Department of Consumer Affairs
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25

1 BILL LOCKYER, Attorney General
of the State of California
2 RUSSELL W. LEE, State Bar No. 094106
Deputy Attorney General
3 California Department of Justice
1515 Clay Street, Suite 2000
4 P.O. Box 70550
Oakland, CA 94612-0550
5 Telephone: (510) 622-2217
Facsimile: (510) 622-2121
6
7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PSYCHOLOGY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. W 242

13 ORLIN JACK WESLEY WALLACE, JR., Ph.D.
522 Sonora Avenue
El Granada, CA 94018

**STIPULATION FOR
SURRENDER OF LICENSE**

14 Psychologist's License No. PSY 11895

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings, that the following matters are true:

19 1. Complainant, Thomas S. O'Connor, is the Executive Officer of the Board of
20 Psychology, Department of Consumer Affairs ("Board") and is represented by Bill Lockyer ,
21 Attorney General of the State of California by Russell W. Lee, Deputy Attorney General.

22 2. Orlin Jack Wesley Wallace, Jr., Ph.D. ("respondent") is represented in this matter
23 by attorney David A. Levy, Esq., Law Offices of David A. Levy, 800 Airport Boulevard, Suite
24 314, Burlingame, CA 94010, (650) 524-0440. The respondent has counseled with his attorney
25 concerning the effect of this stipulation which respondent has carefully read and fully
26 understands.

27 3. Respondent has received and read the Accusation which is presently on file and
28 pending in Case No. W242 before the Board, a copy of which is attached hereto as Exhibit A and

1 incorporated herein by reference.

2 4. Respondent understands the nature of the charges alleged in the Accusation and
3 that, if proven at hearing, such charges and allegations would constitute cause for imposing
4 discipline upon respondent's Psychologist's License ("license") issued by the Board.

5 5. Respondent and his counsel are aware of each of respondent's rights, including the
6 right to a hearing on the charges and allegations, the right to confront and cross-examine
7 witnesses who would testify against respondent, the right to testify and present evidence on his
8 own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the
9 production of documents, the right to contest the charges and allegations, and other rights which
10 are accorded respondent pursuant to the California Administrative Procedure Act (Gov. Code, §
11 11500 et seq.) and other applicable laws, including the right to seek reconsideration, review by
12 the superior court, and appellate review.

13 6. Respondent has retired from the practice of psychology and desires to resolve
14 Accusation No. W242 without the expense and uncertainty of further proceedings. For the
15 purpose of resolving said Accusation, respondent neither admits nor denies the charges in the
16 Accusation, but agrees that, at a hearing, complainant could establish a factual basis for the
17 charges in the Accusation. Respondent hereby gives up his right to contest that cause for
18 discipline exists based on those charges and agrees to surrender his Psychologist's License for the
19 Board's formal acceptance.

20 7. Respondent understands that by signing this stipulation, he is enabling the Board
21 of Psychology to issue its order accepting the surrender of his license without further process.
22 Respondent understands and agrees that Board staff and counsel for complainant may
23 communicate directly with the Board regarding this stipulation, without notice to or participation
24 by respondent or his counsel. In the event that this stipulation is rejected for any reason by the
25 Board, it will be of no force or effect for either party. The Board will not be disqualified from
26 further action in this matter by virtue of its consideration of this stipulation.

27 8. Upon acceptance of the stipulation by the Board, respondent understands that he
28 will no longer be permitted to practice as a psychologist in California, and also agrees to

1 surrender and cause to be delivered to the Board both his license and wallet certificate before the
2 effective date of the decision.


3 9. Respondent fully understands and agrees that if he ever files an application for
4 relicensure or reinstatement in the State of California, the Board shall treat it as a petition for
5 reinstatement of a revoked license, the respondent must comply with all the laws, regulations and
6 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
7 of the charges and allegations contained in Accusation No. W 242 will be deemed to be true,
8 correct and admitted to by respondent when the Board determines whether to grant or deny the
9 petition.

10 10. All admissions and recitals contained in this stipulation are made solely for the
11 purpose of settlement in this proceeding and for any other proceedings in which the Board of
12 Psychology or other professional licensing agency is involved, and shall not be admissible in any
13 other criminal or civil proceedings.

14 ACCEPTANCE

15 I, Orlin Jack Wesley Wallace, Jr., Ph.D., have carefully read the above stipulation and
16 enter into it freely and voluntarily with the advice of counsel, and with full knowledge of its force
17 and effect, do hereby surrender my Psychologist's License No. PSY 11895 to the Board of
18 Psychology for its formal acceptance. By signing this stipulation to surrender my license, I
19 recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to
20 practice as a psychologist in the State of California and I also will cause to be delivered to the
21 Board both my license and wallet certificate before the effective date of the decision.

22
23 DATED: 11/26/02.


24 
25 ORLIN JACK WESLEY WALLACE, JR., Ph.D.
26 Respondent

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1 I concur in the stipulation.

2 DATED: 11/26/02.


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5 DAVID A. LEVY, ESQ.
6 Attorney for Respondent

7 ENDORSEMENT

8 The foregoing Stipulation For Surrender of License is hereby respectfully submitted
9 for consideration of the Board of Psychology, Department of Consumer Affairs.

10 DATED: 12-2-02.

11
12 BILL LOCKYER, Attorney General
of the State of California

13 
14
15 RUSSELL W. LEE
Deputy Attorney General

16 Attorneys for Complainant
17 THOMAS S. O'CONNOR
Executive Officer
18 Board of Psychology
Department of Consumer Affairs
19 State of California

EXHIBIT A

1 BILL LOCKYER, Attorney General
of the State of California
2 RUSSELL W. LEE, State Bar No. 094106
Deputy Attorney General
3 California Department of Justice
1515 Clay Street, Suite 2000
4 P.O. Box 70550
Oakland, CA 94612-0550
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Facsimile: (510) 622-2121

FILED
STATE OF CALIFORNIA
BOARD OF PSYCHOLOGY
SACRAMENTO October 2 20 02
BY M. Jackman ANALYST

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7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. W 242112200

12 ORLIN JACK WESLEY WALLACE, JR., Ph.D.
522 Sonora Avenue
13 El Granada, CA 94018

ACCUSATION

14 Psychologist's License No. PSY 11895

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Thomas S. O'Connor (Complainant) brings this Accusation solely in his
20 official capacity as the Executive Officer of the Board of Psychology, Department of Consumer
21 Affairs.

22 2. On or about August 1, 1990, the Board of Psychology issued
23 Psychologist's License Number PSY 11895 to Orlin Jack Wesley Wallace, Jr., Ph.D.
24 ("respondent"). Said license expired on July 31, 2002 and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Psychology ("Board"),
27 under the authority of the following sections of the Business and Professions Code ("Code"):
28

1 A. Section 2960 of the Code states:

2 "The board may refuse to issue any registration or license, or may issue a
3 registration or license with terms and conditions, or may suspend or revoke the registration or
4 license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of
5 unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

6
7 "(j) Being grossly negligent in the practice of his or her profession.
8

9 (o) Any act of sexual abuse, or sexual relations with a patient or former patient
10 within two years following termination of therapy, or sexual misconduct that is substantially
11 related to the qualifications, functions or duties of a psychologist or psychological assistant or
12 registered psychologist."

13 B. Section 2936 of the Code provides, in relevant part, that the board shall
14 establish as its standards of ethical conduct relating to the practice of psychology the code of
15 ethics adopted and published by the American Psychological Association (APA). Those
16 standards shall be applied by the board as the accepted standard of care in all licensing
17 examination development and in all board enforcement policies and disciplinary case
18 evaluations.

19 (1) The American Psychological Association Ethical Principles and Code of
20 Conduct for Psychologists (December 1992) (hereinafter referred to as the "APA Ethical
21 Principles") provide, in relevant part:

22 (a) Rule 4.05 Psychologists do not engage in sexual intimacies with current
23 patients or clients.

24 (b) Rule 4.07(a) Psychologists do not engage in sexual intimacies with a
25 former therapy patient or client for at least two years after cessation or
26 termination of professional services.

27 (c) Rule 4.09 (a) Psychologists do not abandon patients or clients.
28

1 (d) Rule 4.09(c) Prior to termination for whatever reason, except when
2 precluded by the patient's or client's conduct, the psychologist discusses the patient's or client's
3 views and need, provides appropriate pretermination counseling, suggests alternative service
4 providers as appropriate, and takes other reasonable steps to facilitate transfer of responsibility to
5 another provider if the patient or client needs one immediately

6 C. Section 2964.6 of the Code states:

7 "An administrative disciplinary decision that imposes terms of probation may
8 include, among other things, a requirement that the licensee who is being placed on probation
9 pay the monetary costs associated with monitoring the probation."

10 D. Section 125.3 of the Code states, in pertinent part, that the Board may
11 request the administrative law judge to direct a licensee found to have committed a violation or
12 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
13 and enforcement of the case.

14 E. Section 2960.1 of the Code states:

15 "Notwithstanding Section 2960, any proposed decision or decision issued under
16 this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section
17 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of
18 fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 728,
19 when that act is with a patient, or with a former patient within two years following termination of
20 therapy, shall contain an order of revocation. The revocation shall not be stayed by the
21 administrative law judge."

22 F. Section 118 of the Code states, in pertinent part:

23 "(b) The suspension, expiration, or forfeiture by operation of law of a license
24 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
25 board or by order of a court of law, or its surrender without the written consent of the board, shall
26 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
27 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
28 any ground provided by law or to enter an order suspending or revoking the license or otherwise

1 taking disciplinary action against the licensee on any such ground."

2 " (c) As used in this section, "board" includes an individual who is authorized by
3 any provision of this code to issue, suspend, or revoke a license, and "license" includes
4 "certificate," "registration," and "permit."

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Sexual Misconduct)

7 4. Respondent is subject to disciplinary action under section 2960 of the
8 Code (unprofessional conduct) through section 2936 in that he has violated Rules 4.05 and/or
9 4.07(a) of the APA Ethical Principles of Conduct and/or under section 2960(o) of the Code
10 because he engaged in sexual relations with patient D.G.¹ while she was his patient and/or also
11 engaged in sexual relations with D.G. within two years following termination of therapy. The
12 circumstances are as follows:

13 5. In or about February of 1998, patient D.G., a 70 year old female, sought
14 treatment from respondent for recurrent major depression. D.G. had suffered from continued
15 chronic depression and episodic severe acute periods of suicidal depression since 1974.

16 6. Beginning in or about January of 2000, respondent began to telephone
17 D.G. on the weekends and she began to feel uneasy about their relationship. D.G. attempted to
18 terminate treatment with respondent at that time but respondent convinced her that she needed to
19 stay in treatment with him.

20 7. On or about May 24, 2000, D.G.'s close friend died; several days later
21 respondent made a home visit to see D.G. Respondent hugged her and they began a sexual
22 relationship that lasted during the month of June of 2000.

23 8. In or about the latter part of June 2000, respondent told D.G. that he felt
24 guilty about their relationship. Respondent further advised D.G. that he had previously
25 terminated their therapeutic relationship, although he had never advised D.G. of said termination.
26 Respondent did not refer D.G. to another therapist and respondent did not conduct any

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1. Names of patients will be disclosed pursuant to a valid Request For Discovery.

1 termination sessions with D.G.

2 9. In or about April of 2001, respondent saw D.G. again and they engaged in
3 sexual relations on two more occasions in April of 2001.

4 **SECOND CAUSE FOR DISCIPLINE**

5 (Gross Negligence)

6 10. The allegations of the First Cause of Disciplinary Action are incorporated
7 herein as if fully set forth.

8 11. After respondent had sexual relations with D.G. in June of 2000,
9 respondent violated section 2960(j) of the Code and/or sections 4.09(a) and/or 4.09(c) of the
10 APA Ethical Principles of Conduct in that respondent abandoned patient D.G., and/or failed to
11 conduct any termination sessions with D.G., and/or failed to refer D.G. to another therapist.

12 12. Respondent's conduct as set forth above, whether proven jointly or singly
13 or any combination thereof, constitutes gross negligence under section 2960 (j) and/or
14 unprofessional conduct under section 2936 of the Code, and therefore cause for discipline exists
15 under section 2960 of the Code.

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DATED: October 2, 2002

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DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation Filed
Against:

Orlin Jack Wesley Wallace, Jr., Ph.D.

No. : W242

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Ste. 22 Sacramento, California 95825. I served a true copy of the attached:

DECISION AND ORDER

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

Orlin Jack Wesley Wallace, Jr., Ph.D.
P.O. Box 546
El Granada, CA 94018

7001 1940 0001 2974 7897

Orlin Jack Wesley Wallace, Jr., Ph.D.
522 Sonora Avenue
El Granada, CA 94018

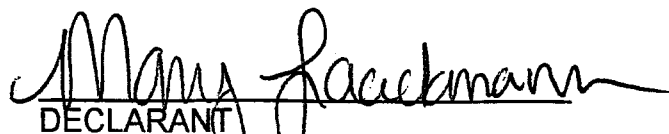
7001 1940 0001 2974 7965

David A. Levy, Esq.
Law Offices of David A. Levy
800 Airport Blvd., Ste. 314
Burlingame, CA 94010

Russell W. Lee
Deputy Attorney General
1515 Clay St., Ste. 2000
Oakland, CA 94612-0550

Each said envelope was then on, January 9, 2003, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, January 9, 2003, at Sacramento, California.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


DECLARANT
Mary Laackmann
Enforcement Analyst